

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 EAGLE VISTA EQUITIES, LLC,) CASE NO. CV 15-8420-JAK (PJWx)
11 Plaintiff,)
12 v.) ORDER DENYING DEFENDANT'S MOTION
13 JOHN D. ELLIS,) TO PROCEED *IN FORMA PAUPERIS* AND
14 Defendant.) REMANDING CASE TO SUPERIOR COURT

)

16 Before the Court is the motion of Defendant John D. Ellis to
17 proceed *in forma pauperis* ("IFP"). For the following reasons, the
18 motion is DENIED and the action is remanded to the Los Angeles
19 Superior Court ("LASC").

20 On October 28, 2015, Defendant, proceeding as a self-represented
21 litigant, lodged a Notice of Removal, accompanied by a request to
22 proceed IFP. The action is one for unlawful detainer that was pending
23 in the LASC. The Court has denied the IFP application under separate
24 cover. To prevent any potential confusion or undue delay as to the
25 determination of federal jurisdiction, the matter is remanded to the
26 LASC.

Simply stated, because Plaintiff could not have brought this action in federal court, there is no basis to remove it. To the

1 extent that Defendant is seeking to assert jurisdiction here by
2 raising federal claims as part of an affirmative defense, he cannot do
3 so. Only the claims raised in the Complaint are considered in
4 determining whether there is federal jurisdiction. *Phillips Petroleum*
5 *Co. v. Texaco, Inc.*, 415 U.S. 125, 127 (1974) (federal questions must
6 be disclosed on the face of the complaint as a defendant's reply is
7 not a basis for federal jurisdiction); *Moore-Thomas v. Alaska*
8 *Airlines, Inc.*, 553 F.3d 1241, 1244 (9th Cir. 2009) (federal law
9 defense does not create federal jurisdiction if the complaint on its
10 face does not present federal question).

11 Plaintiff's unlawful detainer action does not raise a federal
12 question. See 28 U.S.C. § 1331. Nor is there diversity jurisdiction;
13 Plaintiff and Defendant are both citizens of California and the amount
14 in controversy is less than \$10,000. See 28 U.S.C. § 1332. For these
15 reasons, the matter must be remanded for lack of jurisdiction. 28
16 U.S.C. § 1441(a); *Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S.
17 546, 563 (2005).

18 For the foregoing reasons, IT IS ORDERED that: (1) this matter is
19 REMANDED to the LASC, at its Mosk Courthouse, 110 N. Hill St., Los
20 Angeles, California, 90012; and (2) the clerk shall send a
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1 certified copy of this Order to the LASC and serve copies on the
2 parties.

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4 IT IS SO ORDERED.

5 DATED: November 12, 2015

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8 JOHN A. KRONSTADT
9 UNITED STATES DISTRICT JUDGE

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